

Drawings

The examiner has objected to the drawings filed on 10/05/04 as being informal because the letters, numbers, and lines are not uniform in nature throughout Figures 3 and 4. Accordingly, replacement drawings including the appropriate corrections are being submitted with this response. Further, as indicated on the Specification Amendment Sheet, changes to the specification have also been made to reflect the appropriate numbering corresponding to the drawings.

Abstract

The examiner has noted that the abstract does not meet the proper language and format requirements. As indicated on the Specification Amendment Sheet, the appropriate changes to the abstract have been made.

Claim Objections

The examiner objected to claim 3 because of certain grammatical informalities. Claim 3 has been withdrawn from consideration as being drawn to a non-elected invention, however the applicant has made the corrections required by the examiner, as indicated on the Marked Claim Listing Sheet.

Claim Rejections - 35 USC §103 -Obviousness

Mattiola and Niedwiecki do not teach or suggest each and every limitation

As the examiner is aware, when relying upon a combination of references to establish a *prima facie* case of obviousness under § 103, the examiner must establish that the prior art teaches or suggests each and every claim limitation. MPEP § 2143.03. The examiner has not met his burden with regard to claim 1 or claim 2, for the reasons set forth below.

As the examiner has correctly conceded, Mattiola fails to disclose at least one step of applicant's claim 1: transporting a transfilling station to and from a desired transfilling site. However, the examiner

contends that the combination of Mattiola with Niedwiecki would teach this step. The applicant respectfully disagrees for the following reasons.

First, Niedwiecki does not teach that *all* aspects or elements of the transfilling station of Mattiola can be made portable. As one specific example, Mattiola utilizes a vaporizer for vaporizing the liquefied oxygen into a gaseous state, however Niedwiecki does not teach the use of a vaporizer, or that the vaporizer can be loaded onto the station to make it portable. Accordingly, the combination of Mattiola and Niedwiecki do not teach all of the elements of claim 1. Therefore, claim 1 is not obvious in view of the combination of Mattiola and Niedwiecki. MPEP § 2143.03.

There is No Suggestion of Motivation to Modify Mattiola

Change in Principal of Operation

In addition to the aforementioned, there are other reasons why applicant's claim 1 is not obvious in view of the combination of Mattiola and Niedwiecki. As the examiner is aware, to establish a prima facie case of obviousness, there must be some suggestion or motivation, either in references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. However, if the proposed modification destroys the intent, purpose or function of the prior art invention, then there is no suggestion or motivation to make the proposed modification. MPEP §2143.01.

The Mattiola reference first discusses various prior art filling stations and the problems associated with the same, mainly, that these prior art filling stations involve manual procedures, i.e. the manual sniff test, the manual control of the pump operation, etc., that are undesirable. Accordingly, to reduce or eliminate the manual labor involved with such stations, Mattiola proposes a transfilling system that is automated. To achieve this automation, Mattiola proposes the use of a vast amount of

equipment, such as various computer and hardware devices, automated valves, automated analyzers, etc. (See Mattiola at Col 6, lines 42-59) Thus, the principle of operation of Mattiola is to achieve an efficient automated refill system. However, the vast amount of equipment involved in Mattiola's automated system would necessitate that the system be ground-based. Accordingly, an attempt to make the Mattiola system mobile would be quite impractical, if not impossible. On the other hand, Niedwiecki is directed to a compact, mobile transfilling system, and Niedwiecki specifically indicates that "a small trailer suitable for towing by a passenger vehicle..." would be a preferable example of such a system. (See, Niedwiecki at Col.2, lines 20-23). Thus, Niedwiecki does not teach that the vast amount of equipment utilized in Mattiola can be made portable within Niedwiecki's compact system, while simultaneously preserving Mattiola's automation features. Accordingly, if Mattiola were to be modified, then automation would be lost for the sake of portability, and this would fundamentally alter the principle of operation of Mattiola's system. As mentioned above, if the proposed modification renders the prior art invention being modified unsatisfactory for its intended purpose, then there is not suggestion or motivation to make the proposed modification. MPEP §2143.01.

References Teach Away

In addition to the aforementioned reasons, a combination of two references would further be improper because they teach away from each other. Mattiola expressly teaches away from the manual aspects associated with many prior art refilling systems. As discussed above, the goal of Mattiola is to achieve an automated system, which requires the introduction of a vast amount of equipment, which in turn would preclude portability. Niedwiecki on the other hand teaches a compact, mobile transfilling system capable of being enclosed within a small trailer, precluding the vast amount of equipment of

Mattiola. Teaching away from the art is a per se demonstration of lack of prima facie obviousness.
MPEP §2145.X.D2.

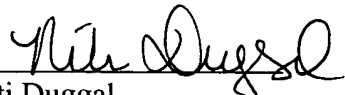
For all the aforementioned reasons, the applicant's invention is *not* obvious in view of the combination of Mattiola and Niedwiecki. Therefore the examiner is respectfully requested to withdraw his rejection of claim 1, and claim 2, dependent thereupon.

Conclusion

Based upon the foregoing comments and discussion, the application is believed to be in condition for allowance, and an early Notice of Allowability is respectfully requested. If the Examiner believes a telephone conference will expedite the disposition of this matter, he is respectfully invited to contact this attorney at the number shown below.

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Respectfully submitted:



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